

<b>Notice of Allowability</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	09/530,370	FAHEY ET AL.	
	<b>Examiner</b>	<b>Art Unit</b>	
	Rodney P. Swartz, Ph.D.	1645	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 7November2003.
2. ☒ The allowed claim(s) is/are 1, 2, 3, 7, 9, 40, 42, 48, 49, 50.
3. ☐ The drawings filed on \_\_\_\_\_ are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All    b) ☐ Some\*    c) ☐ None    of the:
  1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
6. ☒ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
  - (a) ☒ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
    - 1) ☐ hereto or 2) ☒ to Paper No./Mail Date 8.
  - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.

Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

- |   |  |
|---|--|
| 1. <input type="checkbox"/> Notice of References Cited (PTO-892)  | 5. <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 2. <input type="checkbox"/> Notice of Draftperson's Patent Drawing Review (PTO-948)                                 | 6. <input type="checkbox"/> Interview Summary (PTO-413),<br>Paper No./Mail Date _____. |
| 3. <input type="checkbox"/> Information Disclosure Statements (PTO-1449 or PTO/SB/08),<br>Paper No./Mail Date _____ | 7. <input type="checkbox"/> Examiner's Amendment/Comment                               |
| 4. <input type="checkbox"/> Examiner's Comment Regarding Requirement for Deposit<br>of Biological Material          | 8. <input type="checkbox"/> Examiner's Statement of Reasons for Allowance              |
|   | 9. <input type="checkbox"/> Other _____.   |

### **DETAILED ACTION**

1. Applicants' Notice of Appeal, received 7 November 2003, is acknowledged.
2. Applicants' Supplemental Response to Final Office Action, received 7 November 2003, is acknowledged. Claims 5, 6, 8, 10, and 11 have been cancelled. Claims 1, 7, 9, 40, 42, 48, and 50 have been amended.
3. Claims 1-3, 7, 9, 40, 42, and 48-50 are pending and under consideration.

### **Rejections Withdrawn/Moot**

4. The rejection of claims 5 and 6 under 35 U.S.C. 112, first paragraph, scope of enablement for a method of detecting a member of the taxa actinomycetes comprising detecting reaction of a thiol-selective reagent with a thiol, is moot in light of the cancellation of the claims.
5. The rejection of claims 5 and 10 under 35 U.S.C. 112, first paragraph, written description, is moot in light of the cancellation of the claims.
6. The rejection of claims 10 and 11 under 35 U.S.C. 112, first paragraph, scope of enablement, for an antibody which binds "specifically" to a maleimidyl derivative of mycothiol, is moot in light of the cancellation of the claims.
7. The rejection of claims 1-3, 7, and 48-50 under 35 U.S.C. 112, first paragraph, scope of enablement for a method of detecting a member of the taxa actinomycetes comprising detecting reaction of a thiol-selective reagent with a thiol, is withdrawn in light of the claim amendments and applicants' arguments.
8. The rejection of claims 40 and 42 under 35 U.S.C. 112, first paragraph, written description, is withdrawn in light of the claim amendments and applicants' arguments.

Art Unit: 1645

9. The rejection of claim 9 under 35 U.S.C. 112, first paragraph, scope of enablement, for an antibody which binds "specifically" to a maleimidyl derivative of mycothiol, is withdrawn in light of the claim amendments and applicants' arguments.

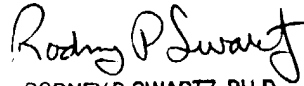
### **Conclusion**

10. Claims 1-3, 7, 9, 40, 42, and 48-50 are free of the prior art of record.

11. The application having been allowed, formal drawings are required in response to this Office action including changes required by the Notice of Draftperson's patent Drawing Review, PTO-948, attached to Office Action, 3April2002, paper#8.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rodney P. Swartz, Ph.D., Art Unit 1645, whose telephone number is (571) 272-0865. The examiner can normally be reached on Monday through Thursday from 5:30 AM to 4:00 PM EST. If attempts to reach the Examiner by telephone are unsuccessful, the examiner's supervisor, Lynette F. Smith, can be reached on (571)272-0864. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

13. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

  
RODNEY P. SWARTZ, PH.D.  
PRIMARY EXAMINER  
Art Unit 1645  
March 22, 2004